



Department of Energy
Washington, DC 20585

December 28, 2009



Chairman Daniel R. Elliott III
Office of Chairman
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20420-0001

RE: Docket Nos. 38302S and 38376S

226213
ENTERED
Office of Proceedings

DEC 29 2009

226214
Part of
Public Record

Dear Chairman Elliott:

The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. The Government continues to pursue settlement with individual carriers and has been engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern. Following up on our most recent report, the Government and BNSF are working to schedule a meeting in the next few weeks to continue discussions aimed at resolving the remaining issues between the parties. In addition, the Government continues to await Norfolk Southern's response to information supplied by the Government following the parties' June 17, 2008, meeting.

Accordingly, we are not yet in a position to report an agreement with either BNSF or Norfolk Southern. However, we remain interested in working with the carriers to reach agreements. We will file a further report by the end of March 2010.

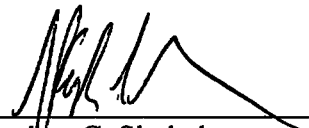
Sincerely,

Stephen C. Skubel
Assistant General Counsel
For Litigation
(202) 586-5579

cc: Vice Chairman Charles D. Nottingham
Board Member Francis P. Mulvey
Attached Service List



D.J. Lewis Director of Marketing Tuscola & Saginaw Bay Railway Company 308 West Main Street Matthews Building, Suite 303 Owosso, MI 48867	Paul Guthrie Canadian Pacific Railway Company 401 9th Avenue, S.W. Gulf Canada Square, Suite 500 Calgary, Alberta T2P 4 Z4 Canada
Samuel M. Sipe, Jr. Carolyn D. Clayton Steptoe & Johnson LLP 1330 Connecticut Avenue, N.W. Washington, D.C. 20036	Robert H. Wheeler General Counsel Wisconsin Chicago Link Ltd. 17641 Ashland Avenue Homewood, IL 60430
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Stephen C. Skubel

CERTIFICATE OF SERVICE

I, Stephen C. Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 28th day of December 2009, on the following:

Aberdeen & Rockfish R.R. Co. P.O. Box 917 Aberdeen, NC 28315	Buffalo & Pittsburgh Railroad c/o Genesee & Wyoming, Inc. 66 Field Point Road Greenwich, CT 06830
Montana Rail Link, Inc. 101 International Way Missoula, MT 59808	James R. Paschall Greg E. Summy Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510
Michael L. Rosenthal Covington & Burling 1201 Pennsylvania Avenue, NW Washington, D.C. 20004-2401	Jill Mulligan The Burlington Northern and Santa Fe Railway Company 2500 Lou Menk Drive, 3rd Floor Fort Worth, TX 76131
Paul Hitchcock Associate General Counsel CSX Transportation, Inc. 500 Water Street - J150 Jacksonville, FL 32202	Theodore K. Kalick Canadian National Railway Company 601 Pennsylvania Avenue, N.W. Suite 500 North Building Washington, D.C. 20004
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